



Rep. Gary Hannig

Filed: 7/24/2004

09300SB2208ham002

LRB093 15827 DRJ 52963 a

1 AMENDMENT TO SENATE BILL 2208

2 AMENDMENT NO. _____. Amend Senate Bill 2208, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 FY2005 Budget Implementation (Human Services) Act.

7 Section 5. Purpose. It is the purpose of this Act to make
8 changes in State programs that are necessary to implement the
9 Governor's FY2005 budget recommendations concerning human
10 services.

11 Section 7. The Illinois Administrative Procedure Act is
12 amended by changing Section 5-45 as follows:

13 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

14 Sec. 5-45. Emergency rulemaking.

15 (a) "Emergency" means the existence of any situation that
16 any agency finds reasonably constitutes a threat to the public
17 interest, safety, or welfare.

18 (b) If any agency finds that an emergency exists that
19 requires adoption of a rule upon fewer days than is required by
20 Section 5-40 and states in writing its reasons for that
21 finding, the agency may adopt an emergency rule without prior
22 notice or hearing upon filing a notice of emergency rulemaking

1 with the Secretary of State under Section 5-70. The notice
2 shall include the text of the emergency rule and shall be
3 published in the Illinois Register. Consent orders or other
4 court orders adopting settlements negotiated by an agency may
5 be adopted under this Section. Subject to applicable
6 constitutional or statutory provisions, an emergency rule
7 becomes effective immediately upon filing under Section 5-65 or
8 at a stated date less than 10 days thereafter. The agency's
9 finding and a statement of the specific reasons for the finding
10 shall be filed with the rule. The agency shall take reasonable
11 and appropriate measures to make emergency rules known to the
12 persons who may be affected by them.

13 (c) An emergency rule may be effective for a period of not
14 longer than 150 days, but the agency's authority to adopt an
15 identical rule under Section 5-40 is not precluded. No
16 emergency rule may be adopted more than once in any 24 month
17 period, except that this limitation on the number of emergency
18 rules that may be adopted in a 24 month period does not apply
19 to (i) emergency rules that make additions to and deletions
20 from the Drug Manual under Section 5-5.16 of the Illinois
21 Public Aid Code or the generic drug formulary under Section
22 3.14 of the Illinois Food, Drug and Cosmetic Act or (ii)
23 emergency rules adopted by the Pollution Control Board before
24 July 1, 1997 to implement portions of the Livestock Management
25 Facilities Act. Two or more emergency rules having
26 substantially the same purpose and effect shall be deemed to be
27 a single rule for purposes of this Section.

28 (d) In order to provide for the expeditious and timely
29 implementation of the State's fiscal year 1999 budget,
30 emergency rules to implement any provision of Public Act 90-587
31 or 90-588 or any other budget initiative for fiscal year 1999
32 may be adopted in accordance with this Section by the agency
33 charged with administering that provision or initiative,
34 except that the 24-month limitation on the adoption of

1 emergency rules and the provisions of Sections 5-115 and 5-125
2 do not apply to rules adopted under this subsection (d). The
3 adoption of emergency rules authorized by this subsection (d)
4 shall be deemed to be necessary for the public interest,
5 safety, and welfare.

6 (e) In order to provide for the expeditious and timely
7 implementation of the State's fiscal year 2000 budget,
8 emergency rules to implement any provision of this amendatory
9 Act of the 91st General Assembly or any other budget initiative
10 for fiscal year 2000 may be adopted in accordance with this
11 Section by the agency charged with administering that provision
12 or initiative, except that the 24-month limitation on the
13 adoption of emergency rules and the provisions of Sections
14 5-115 and 5-125 do not apply to rules adopted under this
15 subsection (e). The adoption of emergency rules authorized by
16 this subsection (e) shall be deemed to be necessary for the
17 public interest, safety, and welfare.

18 (f) In order to provide for the expeditious and timely
19 implementation of the State's fiscal year 2001 budget,
20 emergency rules to implement any provision of this amendatory
21 Act of the 91st General Assembly or any other budget initiative
22 for fiscal year 2001 may be adopted in accordance with this
23 Section by the agency charged with administering that provision
24 or initiative, except that the 24-month limitation on the
25 adoption of emergency rules and the provisions of Sections
26 5-115 and 5-125 do not apply to rules adopted under this
27 subsection (f). The adoption of emergency rules authorized by
28 this subsection (f) shall be deemed to be necessary for the
29 public interest, safety, and welfare.

30 (g) In order to provide for the expeditious and timely
31 implementation of the State's fiscal year 2002 budget,
32 emergency rules to implement any provision of this amendatory
33 Act of the 92nd General Assembly or any other budget initiative
34 for fiscal year 2002 may be adopted in accordance with this

1 Section by the agency charged with administering that provision
2 or initiative, except that the 24-month limitation on the
3 adoption of emergency rules and the provisions of Sections
4 5-115 and 5-125 do not apply to rules adopted under this
5 subsection (g). The adoption of emergency rules authorized by
6 this subsection (g) shall be deemed to be necessary for the
7 public interest, safety, and welfare.

8 (h) In order to provide for the expeditious and timely
9 implementation of the State's fiscal year 2003 budget,
10 emergency rules to implement any provision of this amendatory
11 Act of the 92nd General Assembly or any other budget initiative
12 for fiscal year 2003 may be adopted in accordance with this
13 Section by the agency charged with administering that provision
14 or initiative, except that the 24-month limitation on the
15 adoption of emergency rules and the provisions of Sections
16 5-115 and 5-125 do not apply to rules adopted under this
17 subsection (h). The adoption of emergency rules authorized by
18 this subsection (h) shall be deemed to be necessary for the
19 public interest, safety, and welfare.

20 (i) In order to provide for the expeditious and timely
21 implementation of the State's fiscal year 2004 budget,
22 emergency rules to implement any provision of this amendatory
23 Act of the 93rd General Assembly or any other budget initiative
24 for fiscal year 2004 may be adopted in accordance with this
25 Section by the agency charged with administering that provision
26 or initiative, except that the 24-month limitation on the
27 adoption of emergency rules and the provisions of Sections
28 5-115 and 5-125 do not apply to rules adopted under this
29 subsection (i). The adoption of emergency rules authorized by
30 this subsection (i) shall be deemed to be necessary for the
31 public interest, safety, and welfare.

32 (j) In order to provide for the expeditious and timely
33 implementation of the provisions of the State's fiscal year
34 2005 budget as provided under the Fiscal Year 2005 Budget

1 Implementation (Human Services) Act, emergency rules to
2 implement any provision of the Fiscal Year 2005 Budget
3 Implementation (Human Services) Act may be adopted in
4 accordance with this Section by the agency charged with
5 administering that provision, except that the 24-month
6 limitation on the adoption of emergency rules and the
7 provisions of Sections 5-115 and 5-125 do not apply to rules
8 adopted under this subsection (j). The Department of Public Aid
9 may also adopt rules under this subsection (j) necessary to
10 administer the Illinois Public Aid Code and the Children's
11 Health Insurance Program Act. The adoption of emergency rules
12 authorized by this subsection (j) shall be deemed to be
13 necessary for the public interest, safety, and welfare.

14 (Source: P.A. 92-10, eff. 6-11-01; 92-597, eff. 6-28-02; 93-20,
15 eff. 6-20-03.)

16 Section 10. The Mental Health and Developmental
17 Disabilities Administrative Act is amended by changing Section
18 18.4 and adding Section 18.5 as follows:

19 (20 ILCS 1705/18.4)

20 Sec. 18.4. Community Mental Health Medicaid Trust Fund;
21 reimbursement.

22 (a) The Community Mental Health Medicaid Trust Fund is
23 hereby created in the State Treasury.

24 (b) Except as otherwise provided in this Section, any ~~Any~~
25 funds paid to the State by the federal government under Title
26 XIX or Title XXI of the Social Security Act for services
27 delivered by community mental health services providers, and
28 any interest earned thereon, shall be deposited directly into
29 the Community Mental Health Medicaid Trust Fund. Beginning with
30 State fiscal year 2005, the first \$95,000,000 received by the
31 Department shall be deposited 26.3% into the General Revenue
32 Fund and 73.7% into the Community Mental Health Medicaid Trust

1 Fund. Amounts received in excess of \$95,000,000 in any State
2 fiscal year shall be deposited 50% into the General Revenue
3 Fund and 50% into the Community Mental Health Medicaid Trust
4 Fund. The Department shall analyze the budgeting and
5 programmatic impact of this funding allocation and report to
6 the Governor and the General Assembly the results of this
7 analysis and any recommendations for change, no later than
8 December 31, 2005.

9 (c) The Department shall reimburse community mental health
10 services providers for Medicaid-reimbursed mental health
11 services provided to eligible individuals. Moneys in the
12 Community Mental Health Medicaid Trust Fund may be used for
13 that purpose.

14 (d) As used in this Section:

15 "Medicaid-reimbursed mental health services" means
16 services provided by a community mental health provider under
17 an agreement with the Department that is eligible for
18 reimbursement under the federal Title XIX program or Title XXI
19 program.

20 "Provider" means a community agency that is funded by the
21 Department to provide a Medicaid-reimbursed service.

22 "Services" means mental health services provided under one
23 of the following programs:

- 24 (1) Medicaid Clinic Option;
25 (2) Medicaid Rehabilitation Option;
26 (3) Targeted Case Management.

27 (Source: P.A. 92-597, eff. 6-28-02.)

28 (20 ILCS 1705/18.5 new)

29 Sec. 18.5. Community Developmental Disability Services
30 Medicaid Trust Fund; reimbursement.

31 (a) The Community Developmental Disability Services
32 Medicaid Trust Fund is hereby created in the State treasury.

33 (b) Any funds in excess of \$16,700,000 in any fiscal year

1 paid to the State by the federal government under Title XIX or
2 Title XXI of the Social Security Act for services delivered by
3 community developmental disability services providers for
4 services relating to Developmental Training and Community
5 Integrated Living Arrangements as a result of the conversion of
6 such providers from a grant payment methodology to a
7 fee-for-service payment methodology, or any other funds paid to
8 the State for any subsequent revenue maximization initiatives
9 performed by such providers, and any interest earned thereon,
10 shall be deposited directly into the Community Developmental
11 Disability Services Medicaid Trust Fund. One-third of this
12 amount shall be used only to pay for Medicaid-reimbursed
13 community developmental disability services provided to
14 eligible individuals, and the remainder shall be transferred to
15 the General Revenue Fund.

16 (c) For purposes of this Section:

17 "Medicaid-reimbursed developmental disability services"
18 means services provided by a community developmental
19 disability provider under an agreement with the Department that
20 is eligible for reimbursement under the federal Title XIX
21 program or Title XXI program.

22 "Provider" means a qualified entity as defined in the
23 State's Home and Community-Based Services Waiver for Persons
24 with Developmental Disabilities that is funded by the
25 Department to provide a Medicaid-reimbursed service.

26 "Revenue maximization alternatives" do not include
27 increases in funds paid to the State as a result of growth in
28 spending through service expansion or rate increases.

29 Section 20. The State Finance Act is amended by changing
30 Sections 6z-58 and 25 and by adding Section 8.55 as follows:

31 (30 ILCS 105/6z-58)

32 Sec. 6z-58. The Family Care Fund.

1 (a) There is created in the State treasury the Family Care
2 Fund. Interest earned by the Fund shall be credited to the
3 Fund.

4 (b) The Fund is created ~~solely~~ for the purposes of
5 receiving, investing, and distributing moneys in accordance
6 with (i) an approved waiver under the Social Security Act
7 resulting from the Family Care waiver request submitted by the
8 Illinois Department of Public Aid on February 15, 2002 and (ii)
9 an interagency agreement between the Department of Public Aid
10 and another agency of State government. The Fund shall consist
11 of:

12 (1) All federal financial participation moneys
13 received pursuant to the approved waiver, except for moneys
14 received pursuant to expenditures for medical services by
15 the Department of Public Aid from any other fund; and

16 (2) All other moneys received by the Fund from any
17 source, including interest thereon.

18 (c) Subject to appropriation, the moneys in the Fund shall
19 be disbursed for reimbursement of medical services and other
20 costs associated with persons receiving such services:

21 (1) under programs administered by the Department of
22 Public Aid; and

23 (2) pursuant to an interagency agreement, under
24 programs administered by another agency of State
25 government. ~~under the waiver due to their relationship with~~
26 ~~children receiving medical services pursuant to Article V~~
27 ~~of the Illinois Public Aid Code or the Children's Health~~
28 ~~Insurance Program Act.~~

29 (Source: P.A. 92-600, eff. 6-28-02; 93-20, eff. 6-20-03.)

30 (30 ILCS 105/8.55 new)

31 Sec. 8.55. Interfund transfers. On or after July 1, 2004
32 and until June 30, 2006, in addition to any other transfers
33 that may be provided for by law, at the direction of and upon

1 notification from the Director of Public Aid, the State
 2 Comptroller shall direct and the State Treasurer shall transfer
 3 amounts into the General Revenue Fund from the designated funds
 4 not exceeding the following totals:

5 Hospital Provider Fund \$36,000,000

6 Health and Human Services Medicaid Trust Fund \$124,000,000.

7 Transfers of moneys under this Section may not exceed a
 8 total of \$80,000,000 in any State fiscal year.

9 (30 ILCS 105/25) (from Ch. 127, par. 161)

10 Sec. 25. Fiscal year limitations.

11 (a) All appropriations shall be available for expenditure
 12 for the fiscal year or for a lesser period if the Act making
 13 that appropriation so specifies. A deficiency or emergency
 14 appropriation shall be available for expenditure only through
 15 June 30 of the year when the Act making that appropriation is
 16 enacted unless that Act otherwise provides.

17 (b) Outstanding liabilities as of June 30, payable from
 18 appropriations which have otherwise expired, may be paid out of
 19 the expiring appropriations during the 2-month period ending at
 20 the close of business on August 31. Any service involving
 21 professional or artistic skills or any personal services by an
 22 employee whose compensation is subject to income tax
 23 withholding must be performed as of June 30 of the fiscal year
 24 in order to be considered an "outstanding liability as of June
 25 30" that is thereby eligible for payment out of the expiring
 26 appropriation.

27 However, payment of tuition reimbursement claims under
 28 Section 14-7.03 or 18-3 of the School Code may be made by the
 29 State Board of Education from its appropriations for those
 30 respective purposes for any fiscal year, even though the claims
 31 reimbursed by the payment may be claims attributable to a prior
 32 fiscal year, and payments may be made at the direction of the
 33 State Superintendent of Education from the fund from which the

1 appropriation is made without regard to any fiscal year
2 limitations.

3 Medical payments may be made by the Department of Veterans'
4 Affairs from its appropriations for those purposes for any
5 fiscal year, without regard to the fact that the medical
6 services being compensated for by such payment may have been
7 rendered in a prior fiscal year.

8 Medical payments may be made by the Department of Public
9 Aid and medical payments and child care payments may be made by
10 the Department of Human Services (as successor to the
11 Department of Public Aid) from appropriations for those
12 purposes for any fiscal year, without regard to the fact that
13 the medical or child care services being compensated for by
14 such payment may have been rendered in a prior fiscal year; and
15 payments may be made at the direction of the Department of
16 Central Management Services from the Health Insurance Reserve
17 Fund and the Local Government Health Insurance Reserve Fund
18 without regard to any fiscal year limitations.

19 Medical payments may be made by the Department of Human
20 Services from its appropriations relating to substance abuse
21 treatment services for any fiscal year, without regard to the
22 fact that the medical services being compensated for by such
23 payment may have been rendered in a prior fiscal year, provided
24 the payments are made on a fee-for-service basis consistent
25 with requirements established for Medicaid reimbursement by
26 the Department of Public Aid.

27 Additionally, payments may be made by the Department of
28 Human Services from its appropriations, or any other State
29 agency from its appropriations with the approval of the
30 Department of Human Services, from the Immigration Reform and
31 Control Fund for purposes authorized pursuant to the
32 Immigration Reform and Control Act of 1986, without regard to
33 any fiscal year limitations.

34 Further, with respect to costs incurred in fiscal years

1 2002 and 2003 only, payments may be made by the State Treasurer
2 from its appropriations from the Capital Litigation Trust Fund
3 without regard to any fiscal year limitations.

4 Lease payments may be made by the Department of Central
5 Management Services under the sale and leaseback provisions of
6 Section 7.4 of the State Property Control Act with respect to
7 the James R. Thompson Center and the Elgin Mental Health Center
8 and surrounding land from appropriations for that purpose
9 without regard to any fiscal year limitations.

10 Lease payments may be made under the sale and leaseback
11 provisions of Section 7.5 of the State Property Control Act
12 with respect to the Illinois State Toll Highway Authority
13 headquarters building and surrounding land without regard to
14 any fiscal year limitations.

15 (c) Further, payments may be made by the Department of
16 Public Health and the Department of Human Services (acting as
17 successor to the Department of Public Health under the
18 Department of Human Services Act) from their respective
19 appropriations for grants for medical care to or on behalf of
20 persons suffering from chronic renal disease, persons
21 suffering from hemophilia, rape victims, and premature and
22 high-mortality risk infants and their mothers and for grants
23 for supplemental food supplies provided under the United States
24 Department of Agriculture Women, Infants and Children
25 Nutrition Program, for any fiscal year without regard to the
26 fact that the services being compensated for by such payment
27 may have been rendered in a prior fiscal year.

28 (d) The Department of Public Health and the Department of
29 Human Services (acting as successor to the Department of Public
30 Health under the Department of Human Services Act) shall each
31 annually submit to the State Comptroller, Senate President,
32 Senate Minority Leader, Speaker of the House, House Minority
33 Leader, and the respective Chairmen and Minority Spokesmen of
34 the Appropriations Committees of the Senate and the House, on

1 or before December 31, a report of fiscal year funds used to
2 pay for services provided in any prior fiscal year. This report
3 shall document by program or service category those
4 expenditures from the most recently completed fiscal year used
5 to pay for services provided in prior fiscal years.

6 (e) The Department of Public Aid, ~~and~~ the Department of
7 Human Services (acting as successor to the Department of Public
8 Aid), and the Department of Human Services making
9 fee-for-service payments relating to substance abuse treatment
10 services provided during a previous fiscal year shall each
11 annually submit to the State Comptroller, Senate President,
12 Senate Minority Leader, Speaker of the House, House Minority
13 Leader, the respective Chairmen and Minority Spokesmen of the
14 Appropriations Committees of the Senate and the House, on or
15 before November 30, a report that shall document by program or
16 service category those expenditures from the most recently
17 completed fiscal year used to pay for (i) services provided in
18 prior fiscal years and (ii) services for which claims were
19 received in prior fiscal years.

20 (f) The Department of Human Services (as successor to the
21 Department of Public Aid) shall annually submit to the State
22 Comptroller, Senate President, Senate Minority Leader, Speaker
23 of the House, House Minority Leader, and the respective
24 Chairmen and Minority Spokesmen of the Appropriations
25 Committees of the Senate and the House, on or before December
26 31, a report of fiscal year funds used to pay for services
27 (other than medical care) provided in any prior fiscal year.
28 This report shall document by program or service category those
29 expenditures from the most recently completed fiscal year used
30 to pay for services provided in prior fiscal years.

31 (g) In addition, each annual report required to be
32 submitted by the Department of Public Aid under subsection (e)
33 shall include the following information with respect to the
34 State's Medicaid program:

1 (1) Explanations of the exact causes of the variance
2 between the previous year's estimated and actual
3 liabilities.

4 (2) Factors affecting the Department of Public Aid's
5 liabilities, including but not limited to numbers of aid
6 recipients, levels of medical service utilization by aid
7 recipients, and inflation in the cost of medical services.

8 (3) The results of the Department's efforts to combat
9 fraud and abuse.

10 (h) As provided in Section 4 of the General Assembly
11 Compensation Act, any utility bill for service provided to a
12 General Assembly member's district office for a period
13 including portions of 2 consecutive fiscal years may be paid
14 from funds appropriated for such expenditure in either fiscal
15 year.

16 (i) An agency which administers a fund classified by the
17 Comptroller as an internal service fund may issue rules for:

18 (1) billing user agencies in advance based on estimated
19 charges for goods or services;

20 (2) issuing credits during the subsequent fiscal year
21 for all user agency payments received during the prior
22 fiscal year which were in excess of the final amounts owed
23 by the user agency for that period; and

24 (3) issuing catch-up billings to user agencies during
25 the subsequent fiscal year for amounts remaining due when
26 payments received from the user agency during the prior
27 fiscal year were less than the total amount owed for that
28 period.

29 User agencies are authorized to reimburse internal service
30 funds for catch-up billings by vouchers drawn against their
31 respective appropriations for the fiscal year in which the
32 catch-up billing was issued.

33 (Source: P.A. 92-885, eff. 1-13-03; 93-19, eff. 6-20-03.)

1 Section 22. The Illinois Income Tax Act is amended by
2 changing Section 917 as follows:

3 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

4 Sec. 917. Confidentiality and information sharing.

5 (a) Confidentiality. Except as provided in this Section,
6 all information received by the Department from returns filed
7 under this Act, or from any investigation conducted under the
8 provisions of this Act, shall be confidential, except for
9 official purposes within the Department or pursuant to official
10 procedures for collection of any State tax or pursuant to an
11 investigation or audit by the Illinois State Scholarship
12 Commission of a delinquent student loan or monetary award or
13 enforcement of any civil or criminal penalty or sanction
14 imposed by this Act or by another statute imposing a State tax,
15 and any person who divulges any such information in any manner,
16 except for such purposes and pursuant to order of the Director
17 or in accordance with a proper judicial order, shall be guilty
18 of a Class A misdemeanor. However, the provisions of this
19 paragraph are not applicable to information furnished to a
20 licensed attorney representing the taxpayer where an appeal or
21 a protest has been filed on behalf of the taxpayer.

22 (b) Public information. Nothing contained in this Act shall
23 prevent the Director from publishing or making available to the
24 public the names and addresses of persons filing returns under
25 this Act, or from publishing or making available reasonable
26 statistics concerning the operation of the tax wherein the
27 contents of returns are grouped into aggregates in such a way
28 that the information contained in any individual return shall
29 not be disclosed.

30 (c) Governmental agencies. The Director may make available
31 to the Secretary of the Treasury of the United States or his
32 delegate, or the proper officer or his delegate of any other
33 state imposing a tax upon or measured by income, for

1 exclusively official purposes, information received by the
2 Department in the administration of this Act, but such
3 permission shall be granted only if the United States or such
4 other state, as the case may be, grants the Department
5 substantially similar privileges. The Director may exchange
6 information with the Illinois Department of Public Aid and the
7 Department of Human Services (acting as successor to the
8 Department of Public Aid under the Department of Human Services
9 Act) for the purpose of verifying sources and amounts of income
10 and for other purposes directly connected with the
11 administration of this Act and the Illinois Public Aid Code.
12 The Director may exchange information with the Director of the
13 Department of Employment Security for the purpose of verifying
14 sources and amounts of income and for other purposes directly
15 connected with the administration of this Act and Acts
16 administered by the Department of Employment Security. The
17 Director may make available to the Illinois Industrial
18 Commission information regarding employers for the purpose of
19 verifying the insurance coverage required under the Workers'
20 Compensation Act and Workers' Occupational Diseases Act. The
21 Director may exchange information with the Illinois Department
22 on Aging for the purpose of verifying sources and amounts of
23 income for purposes directly related to confirming eligibility
24 for participation in the programs of benefits authorized by the
25 Senior Citizens and Disabled Persons Property Tax Relief and
26 Pharmaceutical Assistance Act.

27 The Director may make available to any State agency,
28 including the Illinois Supreme Court, which licenses persons to
29 engage in any occupation, information that a person licensed by
30 such agency has failed to file returns under this Act or pay
31 the tax, penalty and interest shown therein, or has failed to
32 pay any final assessment of tax, penalty or interest due under
33 this Act. The Director may make available to any State agency,
34 including the Illinois Supreme Court, information regarding

1 whether a bidder, contractor, or an affiliate of a bidder or
2 contractor has failed to file returns under this Act or pay the
3 tax, penalty, and interest shown therein, or has failed to pay
4 any final assessment of tax, penalty, or interest due under
5 this Act, for the limited purpose of enforcing bidder and
6 contractor certifications. For purposes of this Section, the
7 term "affiliate" means any entity that (1) directly,
8 indirectly, or constructively controls another entity, (2) is
9 directly, indirectly, or constructively controlled by another
10 entity, or (3) is subject to the control of a common entity.
11 For purposes of this subsection (a), an entity controls another
12 entity if it owns, directly or individually, more than 10% of
13 the voting securities of that entity. As used in this
14 subsection (a), the term "voting security" means a security
15 that (1) confers upon the holder the right to vote for the
16 election of members of the board of directors or similar
17 governing body of the business or (2) is convertible into, or
18 entitles the holder to receive upon its exercise, a security
19 that confers such a right to vote. A general partnership
20 interest is a voting security.

21 The Director may make available to any State agency,
22 including the Illinois Supreme Court, units of local
23 government, and school districts, information regarding
24 whether a bidder or contractor is an affiliate of a person who
25 is not collecting and remitting Illinois Use taxes, for the
26 limited purpose of enforcing bidder and contractor
27 certifications.

28 The Director may also make available to the Secretary of
29 State information that a corporation which has been issued a
30 certificate of incorporation by the Secretary of State has
31 failed to file returns under this Act or pay the tax, penalty
32 and interest shown therein, or has failed to pay any final
33 assessment of tax, penalty or interest due under this Act. An
34 assessment is final when all proceedings in court for review of

1 such assessment have terminated or the time for the taking
2 thereof has expired without such proceedings being instituted.
3 For taxable years ending on or after December 31, 1987, the
4 Director may make available to the Director or principal
5 officer of any Department of the State of Illinois, information
6 that a person employed by such Department has failed to file
7 returns under this Act or pay the tax, penalty and interest
8 shown therein. For purposes of this paragraph, the word
9 "Department" shall have the same meaning as provided in Section
10 3 of the State Employees Group Insurance Act of 1971.

11 (d) The Director shall make available for public inspection
12 in the Department's principal office and for publication, at
13 cost, administrative decisions issued on or after January 1,
14 1995. These decisions are to be made available in a manner so
15 that the following taxpayer information is not disclosed:

16 (1) The names, addresses, and identification numbers
17 of the taxpayer, related entities, and employees.

18 (2) At the sole discretion of the Director, trade
19 secrets or other confidential information identified as
20 such by the taxpayer, no later than 30 days after receipt
21 of an administrative decision, by such means as the
22 Department shall provide by rule.

23 The Director shall determine the appropriate extent of the
24 deletions allowed in paragraph (2). In the event the taxpayer
25 does not submit deletions, the Director shall make only the
26 deletions specified in paragraph (1).

27 The Director shall make available for public inspection and
28 publication an administrative decision within 180 days after
29 the issuance of the administrative decision. The term
30 "administrative decision" has the same meaning as defined in
31 Section 3-101 of Article III of the Code of Civil Procedure.
32 Costs collected under this Section shall be paid into the Tax
33 Compliance and Administration Fund.

34 (e) Nothing contained in this Act shall prevent the

1 Director from divulging information to any person pursuant to a
2 request or authorization made by the taxpayer, by an authorized
3 representative of the taxpayer, or, in the case of information
4 related to a joint return, by the spouse filing the joint
5 return with the taxpayer.

6 (Source: P.A. 93-25, eff. 6-20-03.)

7 Section 25. The Nursing Home Care Act is amended by
8 changing Section 3-103 as follows:

9 (210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

10 Sec. 3-103. The procedure for obtaining a valid license
11 shall be as follows:

12 (1) Application to operate a facility shall be made to the
13 Department on forms furnished by the Department.

14 (2) All license applications shall be accompanied with an
15 application fee. The fee for an annual license shall be \$995
16 ~~based on the licensed capacity of the facility and shall be~~
17 ~~determined as follows: 0-49 licensed beds, a flat fee of \$500;~~
18 ~~50-99 licensed beds, a flat fee of \$750; and for any facility~~
19 ~~with 100 or more licensed beds, a fee of \$1,000 plus \$10 per~~
20 ~~licensed bed. Facilities that pay a fee or assessment pursuant~~
21 ~~to Article V-C of the Illinois Public Aid Code shall be exempt~~
22 ~~from the license fee imposed under this item (2).~~ The fee for a
23 2-year license shall be double the fee for the annual license
24 set forth in the preceding sentence. The ~~first \$600,000 of such~~
25 ~~fees collected each fiscal year~~ shall be deposited with the
26 State Treasurer into the Long Term Care Monitor/Receiver Fund,
27 which has been created as a special fund in the State treasury.
28 ~~Any such fees in excess of \$600,000 collected in a fiscal year~~
29 ~~shall be deposited into the General Revenue Fund.~~ This special
30 fund is to be used by the Department for expenses related to
31 the appointment of monitors and receivers as contained in
32 Sections 3-501 through 3-517. At the end of each fiscal year,

1 any funds in excess of \$1,000,000 held in the Long Term Care
2 Monitor/Receiver Fund shall be deposited in the State's General
3 Revenue Fund. The application shall be under oath and the
4 submission of false or misleading information shall be a Class
5 A misdemeanor. The application shall contain the following
6 information:

7 (a) The name and address of the applicant if an
8 individual, and if a firm, partnership, or association, of
9 every member thereof, and in the case of a corporation, the
10 name and address thereof and of its officers and its
11 registered agent, and in the case of a unit of local
12 government, the name and address of its chief executive
13 officer;

14 (b) The name and location of the facility for which a
15 license is sought;

16 (c) The name of the person or persons under whose
17 management or supervision the facility will be conducted;

18 (d) The number and type of residents for which
19 maintenance, personal care, or nursing is to be provided;
20 and

21 (e) Such information relating to the number,
22 experience, and training of the employees of the facility,
23 any management agreements for the operation of the
24 facility, and of the moral character of the applicant and
25 employees as the Department may deem necessary.

26 (3) Each initial application shall be accompanied by a
27 financial statement setting forth the financial condition of
28 the applicant and by a statement from the unit of local
29 government having zoning jurisdiction over the facility's
30 location stating that the location of the facility is not in
31 violation of a zoning ordinance. An initial application for a
32 new facility shall be accompanied by a permit as required by
33 the "Illinois Health Facilities Planning Act". After the
34 application is approved, the applicant shall advise the

1 Department every 6 months of any changes in the information
2 originally provided in the application.

3 (4) Other information necessary to determine the identity
4 and qualifications of an applicant to operate a facility in
5 accordance with this Act shall be included in the application
6 as required by the Department in regulations.

7 (Source: P.A. 93-32, eff. 7-1-03.)

8 Section 27. The Pharmacy Practice Act of 1987 is amended by
9 changing Section 25 as follows:

10 (225 ILCS 85/25) (from Ch. 111, par. 4145)

11 (Section scheduled to be repealed on January 1, 2008)

12 Sec. 25. No person shall compound, or sell or offer for
13 sale, or cause to be compounded, sold or offered for sale any
14 medicine or preparation under or by a name recognized in the
15 United States Pharmacopoeia National Formulary, for internal
16 or external use, which differs from the standard of strength,
17 quality or purity as determined by the test laid down in the
18 United States Pharmacopoeia National Formulary official at the
19 time of such compounding, sale or offering for sale. Nor shall
20 any person compound, sell or offer for sale, or cause to be
21 compounded, sold, or offered for sale, any drug, medicine,
22 poison, chemical or pharmaceutical preparation, the strength
23 or purity of which shall fall below the professed standard of
24 strength or purity under which it is sold. If the physician or
25 other authorized prescriber, when transmitting an oral or
26 written prescription, does not prohibit drug product
27 selection, a different brand name or nonbrand name drug product
28 of the same generic name may be dispensed by the pharmacist,
29 provided that the selected drug has a unit price less than the
30 drug product specified in the prescription ~~and provided that~~
31 ~~the selection is permitted, is not subject to review at a~~
32 ~~meeting of the Technical Advisory Council, is not subject to a~~

1 ~~hearing in accordance with this Section, or is not specifically~~
2 ~~prohibited by the current Drug Product Selection Formulary~~
3 ~~issued by the Department of Public Health pursuant to Section~~
4 ~~3.14 of the Illinois Food, Drug and Cosmetics Act, as amended.~~

5 A generic drug determined to be therapeutically equivalent by
6 the United States Food and Drug Administration (FDA) shall be
7 available for substitution in Illinois in accordance with this
8 Act and the Illinois Food, Drug and Cosmetic Act, provided that
9 each manufacturer submits to the Director of the Department of
10 Public Health a notification containing product technical
11 bioequivalence information as a prerequisite to product
12 substitution when they have completed all required testing to
13 support FDA product approval and, in any event, the information
14 shall be submitted no later than 60 days prior to product
15 substitution in the State. ~~If the Technical Advisory Council~~
16 ~~finds that a generic drug product may have issues related to~~
17 ~~the practice of medicine or the practice of pharmacy, the~~
18 ~~Technical Advisory Council shall review the generic drug~~
19 ~~product at its next regularly scheduled Technical Advisory~~
20 ~~Council meeting. Following the Technical Advisory Council's~~
21 ~~review and initial recommendation that a generic drug product~~
22 ~~not be included in the Illinois Formulary, a hearing shall be~~
23 ~~conducted in accordance with the rules of the Department of~~
24 ~~Public Health and Article 10 of the Illinois Administrative~~
25 ~~Procedure Act if requested by the manufacturer. The Technical~~
26 ~~Advisory Council shall make its recommendation to the~~
27 ~~Department of Public Health within 20 business days after the~~
28 ~~public hearing. If the Department of Public Health, on the~~
29 ~~recommendation of the Technical Advisory Council, determines~~
30 ~~that, based upon a preponderance of the evidence, the drug is~~
31 ~~not bioequivalent, not therapeutically equivalent, or could~~
32 ~~cause clinically significant harm to the health or safety of~~
33 ~~patients receiving that generic drug, the Department of Public~~
34 ~~Health may prohibit the generic drug from substitution in the~~

1 ~~State. A decision by the Department of Public Health to~~
2 ~~prohibit a drug product from substitution shall constitute a~~
3 ~~final administrative decision within the meaning of Section~~
4 ~~22.2 of the Illinois Food, Drug and Cosmetic Act and Section~~
5 ~~3-101 of the Code of Civil Procedure, and shall be subject to~~
6 ~~judicial review pursuant to the provisions of Article III of~~
7 ~~the Administrative Review Law. A decision to prohibit a generic~~
8 ~~drug from substitution must be accompanied by a written~~
9 ~~detailed explanation of the basis for the decision.~~ On the
10 prescription forms of prescribers, shall be placed a signature
11 line and the words "may substitute" and "may not substitute".
12 The prescriber, in his or her own handwriting, shall place a
13 mark beside either the "may substitute" or "may not substitute"
14 alternatives to guide the pharmacist in the dispensing of the
15 prescription. A prescriber placing a mark beside the "may
16 substitute" alternative or failing in his or her own
17 handwriting to place a mark beside either alternative
18 authorizes drug product selection in accordance with this Act.
19 Preprinted or rubber stamped marks, or other deviations from
20 the above prescription format shall not be permitted. The
21 prescriber shall sign the form in his or her own handwriting to
22 authorize the issuance of the prescription. When a person
23 presents a prescription to be dispensed, the pharmacist to whom
24 it is presented may inform the person if the pharmacy has
25 available a different brand name or nonbrand name of the same
26 generic drug prescribed and the price of the different brand
27 name or nonbrand name of the drug product. If the person
28 presenting the prescription is the one to whom the drug is to
29 be administered, the pharmacist may dispense the prescription
30 with the brand prescribed or a different brand name or nonbrand
31 name product of the same generic name ~~that has been permitted~~
32 ~~by the Department of Public Health,~~ if the drug is of lesser
33 unit cost and the patient is informed and agrees to the
34 selection and the pharmacist shall enter such information into

1 the pharmacy record. If the person presenting the prescription
2 is someone other than the one to whom the drug is to be
3 administered the pharmacist shall not dispense the
4 prescription with a brand other than the one specified in the
5 prescription unless the pharmacist has the written or oral
6 authorization to select brands from the person to whom the drug
7 is to be administered or a parent, legal guardian or spouse of
8 that person.

9 In every case in which a selection is made as permitted by
10 the Illinois Food, Drug and Cosmetic Act, the pharmacist shall
11 indicate on the pharmacy record of the filled prescription the
12 name or other identification of the manufacturer of the drug
13 which has been dispensed.

14 The selection of any drug product by a pharmacist shall not
15 constitute evidence of negligence if the selected nonlegend
16 drug product was of the same dosage form and each of its active
17 ingredients did not vary by more than 1 percent from the active
18 ingredients of the prescribed, brand name, nonlegend drug
19 product ~~or if the selected legend drug product was included in~~
20 ~~the Illinois Drug Product Selection Formulary current at the~~
21 ~~time the prescription was dispensed.~~ Failure of a prescribing
22 physician to specify that drug product selection is prohibited
23 does not constitute evidence of negligence unless that
24 practitioner has reasonable cause to believe that the health
25 condition of the patient for whom the physician is prescribing
26 warrants the use of the brand name drug product and not
27 another.

28 The Department is authorized to employ an analyst or
29 chemist of recognized or approved standing whose duty it shall
30 be to examine into any claimed adulteration, illegal
31 substitution, improper selection, alteration, or other
32 violation hereof, and report the result of his investigation,
33 and if such report justify such action the Department shall
34 cause the offender to be prosecuted.

1 (Source: P.A. 91-766, eff. 9-1-00; 92-112, eff. 7-20-01.)

2 Section 30. The Illinois Public Aid Code is amended by
3 changing Sections 5-5, 5-5.4, 5A-2, 5A-4, 5A-5, 5A-7, and 5A-12
4 and adding Sections 5-5.4c and 12-10.7 as follows:

5 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

6 Sec. 5-5. Medical services. The Illinois Department, by
7 rule, shall determine the quantity and quality of and the rate
8 of reimbursement for the medical assistance for which payment
9 will be authorized, and the medical services to be provided,
10 which may include all or part of the following: (1) inpatient
11 hospital services; (2) outpatient hospital services; (3) other
12 laboratory and X-ray services; (4) skilled nursing home
13 services; (5) physicians' services whether furnished in the
14 office, the patient's home, a hospital, a skilled nursing home,
15 or elsewhere; (6) medical care, or any other type of remedial
16 care furnished by licensed practitioners; (7) home health care
17 services; (8) private duty nursing service; (9) clinic
18 services; (10) dental services; (11) physical therapy and
19 related services; (12) prescribed drugs, dentures, and
20 prosthetic devices; and eyeglasses prescribed by a physician
21 skilled in the diseases of the eye, or by an optometrist,
22 whichever the person may select; (13) other diagnostic,
23 screening, preventive, and rehabilitative services; (14)
24 transportation and such other expenses as may be necessary;
25 (15) medical treatment of sexual assault survivors, as defined
26 in Section 1a of the Sexual Assault Survivors Emergency
27 Treatment Act, for injuries sustained as a result of the sexual
28 assault, including examinations and laboratory tests to
29 discover evidence which may be used in criminal proceedings
30 arising from the sexual assault; (16) the diagnosis and
31 treatment of sickle cell anemia; and (17) any other medical
32 care, and any other type of remedial care recognized under the

1 laws of this State, but not including abortions, or induced
2 miscarriages or premature births, unless, in the opinion of a
3 physician, such procedures are necessary for the preservation
4 of the life of the woman seeking such treatment, or except an
5 induced premature birth intended to produce a live viable child
6 and such procedure is necessary for the health of the mother or
7 her unborn child. The Illinois Department, by rule, shall
8 prohibit any physician from providing medical assistance to
9 anyone eligible therefor under this Code where such physician
10 has been found guilty of performing an abortion procedure in a
11 wilful and wanton manner upon a woman who was not pregnant at
12 the time such abortion procedure was performed. The term "any
13 other type of remedial care" shall include nursing care and
14 nursing home service for persons who rely on treatment by
15 spiritual means alone through prayer for healing.

16 Notwithstanding any other provision of this Section, a
17 comprehensive tobacco use cessation program that includes
18 purchasing prescription drugs or prescription medical devices
19 approved by the Food and Drug administration shall be covered
20 under the medical assistance program under this Article for
21 persons who are otherwise eligible for assistance under this
22 Article.

23 Notwithstanding any other provision of this Code, the
24 Illinois Department may not require, as a condition of payment
25 for any laboratory test authorized under this Article, that a
26 physician's handwritten signature appear on the laboratory
27 test order form. The Illinois Department may, however, impose
28 other appropriate requirements regarding laboratory test order
29 documentation.

30 The Illinois Department of Public Aid shall provide the
31 following services to persons eligible for assistance under
32 this Article who are participating in education, training or
33 employment programs operated by the Department of Human
34 Services as successor to the Department of Public Aid:

1 (1) dental services, which shall include but not be
2 limited to prosthodontics; and

3 (2) eyeglasses prescribed by a physician skilled in the
4 diseases of the eye, or by an optometrist, whichever the
5 person may select.

6 The Illinois Department, by rule, may distinguish and
7 classify the medical services to be provided only in accordance
8 with the classes of persons designated in Section 5-2.

9 The Illinois Department shall authorize the provision of,
10 and shall authorize payment for, screening by low-dose
11 mammography for the presence of occult breast cancer for women
12 35 years of age or older who are eligible for medical
13 assistance under this Article, as follows: a baseline mammogram
14 for women 35 to 39 years of age and an annual mammogram for
15 women 40 years of age or older. All screenings shall include a
16 physical breast exam, instruction on self-examination and
17 information regarding the frequency of self-examination and
18 its value as a preventative tool. As used in this Section,
19 "low-dose mammography" means the x-ray examination of the
20 breast using equipment dedicated specifically for mammography,
21 including the x-ray tube, filter, compression device, image
22 receptor, and cassettes, with an average radiation exposure
23 delivery of less than one rad mid-breast, with 2 views for each
24 breast.

25 Any medical or health care provider shall immediately
26 recommend, to any pregnant woman who is being provided prenatal
27 services and is suspected of drug abuse or is addicted as
28 defined in the Alcoholism and Other Drug Abuse and Dependency
29 Act, referral to a local substance abuse treatment provider
30 licensed by the Department of Human Services or to a licensed
31 hospital which provides substance abuse treatment services.
32 The Department of Public Aid shall assure coverage for the cost
33 of treatment of the drug abuse or addiction for pregnant
34 recipients in accordance with the Illinois Medicaid Program in

1 conjunction with the Department of Human Services.

2 All medical providers providing medical assistance to
3 pregnant women under this Code shall receive information from
4 the Department on the availability of services under the Drug
5 Free Families with a Future or any comparable program providing
6 case management services for addicted women, including
7 information on appropriate referrals for other social services
8 that may be needed by addicted women in addition to treatment
9 for addiction.

10 The Illinois Department, in cooperation with the
11 Departments of Human Services (as successor to the Department
12 of Alcoholism and Substance Abuse) and Public Health, through a
13 public awareness campaign, may provide information concerning
14 treatment for alcoholism and drug abuse and addiction, prenatal
15 health care, and other pertinent programs directed at reducing
16 the number of drug-affected infants born to recipients of
17 medical assistance.

18 Neither the Illinois Department of Public Aid nor the
19 Department of Human Services shall sanction the recipient
20 solely on the basis of her substance abuse.

21 The Illinois Department shall establish such regulations
22 governing the dispensing of health services under this Article
23 as it shall deem appropriate. The Department should seek the
24 advice of formal professional advisory committees appointed by
25 the Director of the Illinois Department for the purpose of
26 providing regular advice on policy and administrative matters,
27 information dissemination and educational activities for
28 medical and health care providers, and consistency in
29 procedures to the Illinois Department.

30 The Illinois Department may develop and contract with
31 Partnerships of medical providers to arrange medical services
32 for persons eligible under Section 5-2 of this Code.
33 Implementation of this Section may be by demonstration projects
34 in certain geographic areas. The Partnership shall be

1 represented by a sponsor organization. The Department, by rule,
2 shall develop qualifications for sponsors of Partnerships.
3 Nothing in this Section shall be construed to require that the
4 sponsor organization be a medical organization.

5 The sponsor must negotiate formal written contracts with
6 medical providers for physician services, inpatient and
7 outpatient hospital care, home health services, treatment for
8 alcoholism and substance abuse, and other services determined
9 necessary by the Illinois Department by rule for delivery by
10 Partnerships. Physician services must include prenatal and
11 obstetrical care. The Illinois Department shall reimburse
12 medical services delivered by Partnership providers to clients
13 in target areas according to provisions of this Article and the
14 Illinois Health Finance Reform Act, except that:

15 (1) Physicians participating in a Partnership and
16 providing certain services, which shall be determined by
17 the Illinois Department, to persons in areas covered by the
18 Partnership may receive an additional surcharge for such
19 services.

20 (2) The Department may elect to consider and negotiate
21 financial incentives to encourage the development of
22 Partnerships and the efficient delivery of medical care.

23 (3) Persons receiving medical services through
24 Partnerships may receive medical and case management
25 services above the level usually offered through the
26 medical assistance program.

27 Medical providers shall be required to meet certain
28 qualifications to participate in Partnerships to ensure the
29 delivery of high quality medical services. These
30 qualifications shall be determined by rule of the Illinois
31 Department and may be higher than qualifications for
32 participation in the medical assistance program. Partnership
33 sponsors may prescribe reasonable additional qualifications
34 for participation by medical providers, only with the prior

1 written approval of the Illinois Department.

2 Nothing in this Section shall limit the free choice of
3 practitioners, hospitals, and other providers of medical
4 services by clients. In order to ensure patient freedom of
5 choice, the Illinois Department shall immediately promulgate
6 all rules and take all other necessary actions so that provided
7 services may be accessed from therapeutically certified
8 optometrists to the full extent of the Illinois Optometric
9 Practice Act of 1987 without discriminating between service
10 providers.

11 The Department shall apply for a waiver from the United
12 States Health Care Financing Administration to allow for the
13 implementation of Partnerships under this Section.

14 The Illinois Department shall require health care
15 providers to maintain records that document the medical care
16 and services provided to recipients of Medical Assistance under
17 this Article. The Illinois Department shall require health care
18 providers to make available, when authorized by the patient, in
19 writing, the medical records in a timely fashion to other
20 health care providers who are treating or serving persons
21 eligible for Medical Assistance under this Article. All
22 dispensers of medical services shall be required to maintain
23 and retain business and professional records sufficient to
24 fully and accurately document the nature, scope, details and
25 receipt of the health care provided to persons eligible for
26 medical assistance under this Code, in accordance with
27 regulations promulgated by the Illinois Department. The rules
28 and regulations shall require that proof of the receipt of
29 prescription drugs, dentures, prosthetic devices and
30 eyeglasses by eligible persons under this Section accompany
31 each claim for reimbursement submitted by the dispenser of such
32 medical services. No such claims for reimbursement shall be
33 approved for payment by the Illinois Department without such
34 proof of receipt, unless the Illinois Department shall have put

1 into effect and shall be operating a system of post-payment
2 audit and review which shall, on a sampling basis, be deemed
3 adequate by the Illinois Department to assure that such drugs,
4 dentures, prosthetic devices and eyeglasses for which payment
5 is being made are actually being received by eligible
6 recipients. Within 90 days after the effective date of this
7 amendatory Act of 1984, the Illinois Department shall establish
8 a current list of acquisition costs for all prosthetic devices
9 and any other items recognized as medical equipment and
10 supplies reimbursable under this Article and shall update such
11 list on a quarterly basis, except that the acquisition costs of
12 all prescription drugs shall be updated no less frequently than
13 every 30 days as required by Section 5-5.12.

14 The rules and regulations of the Illinois Department shall
15 require that a written statement including the required opinion
16 of a physician shall accompany any claim for reimbursement for
17 abortions, or induced miscarriages or premature births. This
18 statement shall indicate what procedures were used in providing
19 such medical services.

20 The Illinois Department shall require all dispensers of
21 medical services, other than an individual practitioner or
22 group of practitioners, desiring to participate in the Medical
23 Assistance program established under this Article to disclose
24 all financial, beneficial, ownership, equity, surety or other
25 interests in any and all firms, corporations, partnerships,
26 associations, business enterprises, joint ventures, agencies,
27 institutions or other legal entities providing any form of
28 health care services in this State under this Article.

29 The Illinois Department may require that all dispensers of
30 medical services desiring to participate in the medical
31 assistance program established under this Article disclose,
32 under such terms and conditions as the Illinois Department may
33 by rule establish, all inquiries from clients and attorneys
34 regarding medical bills paid by the Illinois Department, which

1 inquiries could indicate potential existence of claims or liens
2 for the Illinois Department.

3 Enrollment of a vendor that provides non-emergency medical
4 transportation, defined by the Department by rule, shall be
5 conditional for 180 days. During that time, the Department of
6 Public Aid may terminate the vendor's eligibility to
7 participate in the medical assistance program without cause.
8 That termination of eligibility is not subject to the
9 Department's hearing process.

10 The Illinois Department shall establish policies,
11 procedures, standards and criteria by rule for the acquisition,
12 repair and replacement of orthotic and prosthetic devices and
13 durable medical equipment. Such rules shall provide, but not be
14 limited to, the following services: (1) immediate repair or
15 replacement of such devices by recipients without medical
16 authorization; and (2) rental, lease, purchase or
17 lease-purchase of durable medical equipment in a
18 cost-effective manner, taking into consideration the
19 recipient's medical prognosis, the extent of the recipient's
20 needs, and the requirements and costs for maintaining such
21 equipment. Such rules shall enable a recipient to temporarily
22 acquire and use alternative or substitute devices or equipment
23 pending repairs or replacements of any device or equipment
24 previously authorized for such recipient by the Department.
25 ~~Rules under clause (2) above shall not provide for purchase or~~
26 ~~lease-purchase of durable medical equipment or supplies used~~
27 ~~for the purpose of oxygen delivery and respiratory care.~~

28 The Department shall execute, relative to the nursing home
29 prescreening project, written inter-agency agreements with the
30 Department of Human Services and the Department on Aging, to
31 effect the following: (i) intake procedures and common
32 eligibility criteria for those persons who are receiving
33 non-institutional services; and (ii) the establishment and
34 development of non-institutional services in areas of the State

1 where they are not currently available or are undeveloped.

2 The Illinois Department shall develop and operate, in
3 cooperation with other State Departments and agencies and in
4 compliance with applicable federal laws and regulations,
5 appropriate and effective systems of health care evaluation and
6 programs for monitoring of utilization of health care services
7 and facilities, as it affects persons eligible for medical
8 assistance under this Code.

9 The Illinois Department shall report annually to the
10 General Assembly, no later than the second Friday in April of
11 1979 and each year thereafter, in regard to:

12 (a) actual statistics and trends in utilization of
13 medical services by public aid recipients;

14 (b) actual statistics and trends in the provision of
15 the various medical services by medical vendors;

16 (c) current rate structures and proposed changes in
17 those rate structures for the various medical vendors; and

18 (d) efforts at utilization review and control by the
19 Illinois Department.

20 The period covered by each report shall be the 3 years
21 ending on the June 30 prior to the report. The report shall
22 include suggested legislation for consideration by the General
23 Assembly. The filing of one copy of the report with the
24 Speaker, one copy with the Minority Leader and one copy with
25 the Clerk of the House of Representatives, one copy with the
26 President, one copy with the Minority Leader and one copy with
27 the Secretary of the Senate, one copy with the Legislative
28 Research Unit, and such additional copies with the State
29 Government Report Distribution Center for the General Assembly
30 as is required under paragraph (t) of Section 7 of the State
31 Library Act shall be deemed sufficient to comply with this
32 Section.

33 (Source: P.A. 92-16, eff. 6-28-01; 92-651, eff. 7-11-02;
34 92-789, eff. 8-6-02; 93-632, eff. 2-1-04.)

1 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

2 Sec. 5-5.4. Standards of Payment - Department of Public
3 Aid. The Department of Public Aid shall develop standards of
4 payment of skilled nursing and intermediate care services in
5 facilities providing such services under this Article which:

6 (1) Provide for the determination of a facility's payment
7 for skilled nursing and intermediate care services on a
8 prospective basis. The amount of the payment rate for all
9 nursing facilities certified by the Department of Public Health
10 under the Nursing Home Care Act as Intermediate Care for the
11 Developmentally Disabled facilities, Long Term Care for Under
12 Age 22 facilities, Skilled Nursing facilities, or Intermediate
13 Care facilities under the medical assistance program shall be
14 prospectively established annually on the basis of historical,
15 financial, and statistical data reflecting actual costs from
16 prior years, which shall be applied to the current rate year
17 and updated for inflation, except that the capital cost element
18 for newly constructed facilities shall be based upon projected
19 budgets. The annually established payment rate shall take
20 effect on July 1 in 1984 and subsequent years. No rate increase
21 and no update for inflation shall be provided on or after July
22 1, 1994 and before July 1, 2005 ~~2004~~, unless specifically
23 provided for in this Section. The changes made by this
24 amendatory Act of the 93rd General Assembly extending the
25 duration of the prohibition against a rate increase or update
26 for inflation are effective retroactive to July 1, 2004.

27 For facilities licensed by the Department of Public Health
28 under the Nursing Home Care Act as Intermediate Care for the
29 Developmentally Disabled facilities or Long Term Care for Under
30 Age 22 facilities, the rates taking effect on July 1, 1998
31 shall include an increase of 3%. For facilities licensed by the
32 Department of Public Health under the Nursing Home Care Act as
33 Skilled Nursing facilities or Intermediate Care facilities,

1 the rates taking effect on July 1, 1998 shall include an
2 increase of 3% plus \$1.10 per resident-day, as defined by the
3 Department.

4 For facilities licensed by the Department of Public Health
5 under the Nursing Home Care Act as Intermediate Care for the
6 Developmentally Disabled facilities or Long Term Care for Under
7 Age 22 facilities, the rates taking effect on July 1, 1999
8 shall include an increase of 1.6% plus \$3.00 per resident-day,
9 as defined by the Department. For facilities licensed by the
10 Department of Public Health under the Nursing Home Care Act as
11 Skilled Nursing facilities or Intermediate Care facilities,
12 the rates taking effect on July 1, 1999 shall include an
13 increase of 1.6% and, for services provided on or after October
14 1, 1999, shall be increased by \$4.00 per resident-day, as
15 defined by the Department.

16 For facilities licensed by the Department of Public Health
17 under the Nursing Home Care Act as Intermediate Care for the
18 Developmentally Disabled facilities or Long Term Care for Under
19 Age 22 facilities, the rates taking effect on July 1, 2000
20 shall include an increase of 2.5% per resident-day, as defined
21 by the Department. For facilities licensed by the Department of
22 Public Health under the Nursing Home Care Act as Skilled
23 Nursing facilities or Intermediate Care facilities, the rates
24 taking effect on July 1, 2000 shall include an increase of 2.5%
25 per resident-day, as defined by the Department.

26 For facilities licensed by the Department of Public Health
27 under the Nursing Home Care Act as skilled nursing facilities
28 or intermediate care facilities, a new payment methodology must
29 be implemented for the nursing component of the rate effective
30 July 1, 2003. The Department of Public Aid shall develop the
31 new payment methodology using the Minimum Data Set (MDS) as the
32 instrument to collect information concerning nursing home
33 resident condition necessary to compute the rate. The
34 Department of Public Aid shall develop the new payment

1 methodology to meet the unique needs of Illinois nursing home
2 residents while remaining subject to the appropriations
3 provided by the General Assembly. A transition period from the
4 payment methodology in effect on June 30, 2003 to the payment
5 methodology in effect on July 1, 2003 shall be provided for a
6 period not exceeding 2 years after implementation of the new
7 payment methodology as follows:

8 (A) For a facility that would receive a lower nursing
9 component rate per patient day under the new system than
10 the facility received effective on the date immediately
11 preceding the date that the Department implements the new
12 payment methodology, the nursing component rate per
13 patient day for the facility shall be held at the level in
14 effect on the date immediately preceding the date that the
15 Department implements the new payment methodology until a
16 higher nursing component rate of reimbursement is achieved
17 by that facility.

18 (B) For a facility that would receive a higher nursing
19 component rate per patient day under the payment
20 methodology in effect on July 1, 2003 than the facility
21 received effective on the date immediately preceding the
22 date that the Department implements the new payment
23 methodology, the nursing component rate per patient day for
24 the facility shall be adjusted.

25 (C) Notwithstanding paragraphs (A) and (B), the
26 nursing component rate per patient day for the facility
27 shall be adjusted subject to appropriations provided by the
28 General Assembly.

29 For facilities licensed by the Department of Public Health
30 under the Nursing Home Care Act as Intermediate Care for the
31 Developmentally Disabled facilities or Long Term Care for Under
32 Age 22 facilities, the rates taking effect on March 1, 2001
33 shall include a statewide increase of 7.85%, as defined by the
34 Department.

1 For facilities licensed by the Department of Public Health
2 under the Nursing Home Care Act as Intermediate Care for the
3 Developmentally Disabled facilities or Long Term Care for Under
4 Age 22 facilities, the rates taking effect on April 1, 2002
5 shall include a statewide increase of 2.0%, as defined by the
6 Department. This increase terminates on July 1, 2002; beginning
7 July 1, 2002 these rates are reduced to the level of the rates
8 in effect on March 31, 2002, as defined by the Department.

9 For facilities licensed by the Department of Public Health
10 under the Nursing Home Care Act as skilled nursing facilities
11 or intermediate care facilities, the rates taking effect on
12 July 1, 2001 shall be computed using the most recent cost
13 reports on file with the Department of Public Aid no later than
14 April 1, 2000, updated for inflation to January 1, 2001. For
15 rates effective July 1, 2001 only, rates shall be the greater
16 of the rate computed for July 1, 2001 or the rate effective on
17 June 30, 2001.

18 Notwithstanding any other provision of this Section, for
19 facilities licensed by the Department of Public Health under
20 the Nursing Home Care Act as skilled nursing facilities or
21 intermediate care facilities, the Illinois Department shall
22 determine by rule the rates taking effect on July 1, 2002,
23 which shall be 5.9% less than the rates in effect on June 30,
24 2002.

25 Notwithstanding any other provision of this Section, for
26 facilities licensed by the Department of Public Health under
27 the Nursing Home Care Act as skilled nursing facilities or
28 intermediate care facilities, if the payment methodologies
29 required under Section 5A-12 and the waiver granted under 42
30 CFR 433.68 are approved by the United States Centers for
31 Medicare and Medicaid Services, the Illinois Department shall
32 determine by rule the rates taking effect on July 1, 2004 2003,
33 which shall be 3.0% greater less than the rates in effect on
34 June 30, 2004 2002. These rates ~~This rate~~ shall take effect

1 only upon approval and implementation of the payment
2 methodologies required under Section 5A-12.

3 Notwithstanding any other provisions of this Section, for
4 facilities licensed by the Department of Public Health under
5 the Nursing Home Care Act as skilled nursing facilities or
6 intermediate care facilities, the rates taking effect on
7 January 1, 2005 shall be 3% more than the rates in effect on
8 December 31, 2004.

9 For facilities licensed by the Department of Public Health
10 under the Nursing Home Care Act as Intermediate Care for the
11 Developmentally Disabled facilities or as long-term care
12 facilities for residents under 22 years of age, the rates
13 taking effect on July 1, 2003 shall include a statewide
14 increase of 4%, as defined by the Department.

15 Rates established effective each July 1 shall govern
16 payment for services rendered throughout that fiscal year,
17 except that rates established on July 1, 1996 shall be
18 increased by 6.8% for services provided on or after January 1,
19 1997. Such rates will be based upon the rates calculated for
20 the year beginning July 1, 1990, and for subsequent years
21 thereafter until June 30, 2001 shall be based on the facility
22 cost reports for the facility fiscal year ending at any point
23 in time during the previous calendar year, updated to the
24 midpoint of the rate year. The cost report shall be on file
25 with the Department no later than April 1 of the current rate
26 year. Should the cost report not be on file by April 1, the
27 Department shall base the rate on the latest cost report filed
28 by each skilled care facility and intermediate care facility,
29 updated to the midpoint of the current rate year. In
30 determining rates for services rendered on and after July 1,
31 1985, fixed time shall not be computed at less than zero. The
32 Department shall not make any alterations of regulations which
33 would reduce any component of the Medicaid rate to a level
34 below what that component would have been utilizing in the rate

1 effective on July 1, 1984.

2 (2) Shall take into account the actual costs incurred by
3 facilities in providing services for recipients of skilled
4 nursing and intermediate care services under the medical
5 assistance program.

6 (3) Shall take into account the medical and psycho-social
7 characteristics and needs of the patients.

8 (4) Shall take into account the actual costs incurred by
9 facilities in meeting licensing and certification standards
10 imposed and prescribed by the State of Illinois, any of its
11 political subdivisions or municipalities and by the U.S.
12 Department of Health and Human Services pursuant to Title XIX
13 of the Social Security Act.

14 The Department of Public Aid shall develop precise
15 standards for payments to reimburse nursing facilities for any
16 utilization of appropriate rehabilitative personnel for the
17 provision of rehabilitative services which is authorized by
18 federal regulations, including reimbursement for services
19 provided by qualified therapists or qualified assistants, and
20 which is in accordance with accepted professional practices.
21 Reimbursement also may be made for utilization of other
22 supportive personnel under appropriate supervision.

23 (Source: P.A. 92-10, eff. 6-11-01; 92-31, eff. 6-28-01; 92-597,
24 eff. 6-28-02; 92-651, eff. 7-11-02; 92-848, eff. 1-1-03; 93-20,
25 eff. 6-20-03; 93-649, eff. 1-8-04; 93-659, eff. 2-3-04; revised
26 2-3-04.)

27 (305 ILCS 5/5-5.4c new)

28 Sec. 5-5.4c. Bed reserves; approval. The Department of
29 Public Aid shall approve bed reserves at a daily rate of 75% of
30 an individual's current Medicaid per diem, for nursing
31 facilities 90% or more of whose residents are Medicaid
32 recipients and that have occupancy levels of at least 93% for
33 resident bed reserves not exceeding 10 days.

1 (305 ILCS 5/5A-2) (from Ch. 23, par. 5A-2)

2 (Section scheduled to be repealed on July 1, 2005)

3 Sec. 5A-2. Assessment; no local authorization to tax.

4 (a) Subject to Sections 5A-3 and 5A-10, an annual
5 assessment on inpatient services is imposed on each hospital
6 provider in an amount equal to the hospital's occupied bed days
7 multiplied by \$84.19 for State fiscal years 2004 and 2005, if
8 the payment methodologies required under 5A-12 and the waiver
9 granted under 42 CFR 433.68 are approved with an effective date
10 prior to July 1, 2004; or the assessment will be imposed for
11 fiscal year 2005 only, if the payment methodologies required
12 under Section 5A-12 and the waiver granted under 42 CFR 433.68
13 are approved with an effective date on or after July 1, 2004 ~~in~~
14 ~~an amount equal to the hospital's occupied bed days multiplied~~
15 ~~by \$84.19.~~

16 The Department of Public Aid shall use the number of
17 occupied bed days as reported by each hospital on the Annual
18 Survey of Hospitals conducted by the Department of Public
19 Health to calculate the hospital's annual assessment. If the
20 sum of a hospital's occupied bed days is not reported on the
21 Annual Survey of Hospitals or if there are data errors in the
22 reported sum of a hospital's occupied bed days as determined by
23 the Department of Public Aid, then the Department of Public Aid
24 may obtain the sum of occupied bed days from any source
25 available, including, but not limited to, records maintained by
26 the hospital provider, which may be inspected at all times
27 during business hours of the day by the Department of Public
28 Aid or its duly authorized agents and employees.

29 (b) Nothing in this amendatory Act of the 93rd General
30 Assembly shall be construed to authorize any home rule unit or
31 other unit of local government to license for revenue or to
32 impose a tax or assessment upon hospital providers or the
33 occupation of hospital provider, or a tax or assessment

1 measured by the income or earnings of a hospital provider.

2 (c) As provided in Section 5A-14, this Section is repealed
3 on July 1, 2005.

4 (Source: P.A. 93-659, eff. 2-3-04.)

5 (305 ILCS 5/5A-4) (from Ch. 23, par. 5A-4)

6 Sec. 5A-4. Payment of assessment; penalty.

7 (a) The annual assessment imposed by Section 5A-2 for State
8 fiscal year 2004 shall be due and payable on June 18 of the
9 year. The assessment imposed by Section 5A-2 for State fiscal
10 year 2005 shall be due and payable in quarterly installments,
11 each equalling one-fourth of the assessment for the year, on
12 July 19, October 19, January 18, and April 19 of the year. No
13 installment payment of an assessment imposed by Section 5A-2
14 shall be due and payable, however, until after: (i) the
15 hospital provider receives written notice from the Department
16 of Public Aid that the payment methodologies to hospitals
17 required under Section 5A-12 have been approved by the Centers
18 for Medicare and Medicaid Services of the U.S. Department of
19 Health and Human Services and the waiver under 42 CFR 433.68
20 for the assessment imposed by Section 5A-2 has been granted by
21 the Centers for Medicare and Medicaid Services of the U.S.
22 Department of Health and Human Services; and (ii) the hospital
23 has received the payments required under Section 5A-12. Upon
24 notification to the Department of approval of the payment
25 methodologies required under Section 5A-12 and the waiver
26 granted under 42 CFR 433.68, all quarterly installments
27 otherwise due under Section 5A-2 prior to the date of
28 notification shall be due and payable to the Department within
29 30 days of the date of notification.

30 (b) The Illinois Department is authorized to establish
31 delayed payment schedules for hospital providers that are
32 unable to make installment payments when due under this Section
33 due to financial difficulties, as determined by the Illinois

1 Department.

2 (c) If a hospital provider fails to pay the full amount of
3 an installment when due (including any extensions granted under
4 subsection (b)), there shall, unless waived by the Illinois
5 Department for reasonable cause, be added to the assessment
6 imposed by Section 5A-2 a penalty assessment equal to the
7 lesser of (i) 5% of the amount of the installment not paid on
8 or before the due date plus 5% of the portion thereof remaining
9 unpaid on the last day of each 30-day period thereafter or (ii)
10 100% of the installment amount not paid on or before the due
11 date. For purposes of this subsection, payments will be
12 credited first to unpaid installment amounts (rather than to
13 penalty or interest), beginning with the most delinquent
14 installments.

15 (Source: P.A. 93-659, eff. 2-3-04.)

16 (305 ILCS 5/5A-5) (from Ch. 23, par. 5A-5)

17 Sec. 5A-5. Notice; penalty; maintenance of records.

18 (a) ~~After December 31 of each year (except as otherwise~~
19 ~~provided in this subsection), and on or before March 31 of the~~
20 ~~succeeding year, the~~ The Department of Public Aid shall send a
21 notice of assessment to every hospital provider subject to
22 assessment under this Article. The notice of assessment shall
23 notify the hospital of its assessment and ~~for the State fiscal~~
24 ~~year commencing on the next July 1, except that the notice for~~
25 ~~the State fiscal year commencing July 1, 2003 shall be sent~~
26 within 14 days of receipt by the Department of notification
27 from the Centers for Medicare and Medicaid Services of the U.S.
28 Department of Health and Human Services that the payment
29 methodologies required under Section 5A-12 and the waiver
30 granted under 42 CFR 433.68 have been approved ~~on or before~~
31 ~~June 1, 2004~~. The notice shall be on a form prepared by the
32 Illinois Department and shall state the following:

33 (1) The name of the hospital provider.

1 (2) The address of the hospital provider's principal
2 place of business from which the provider engages in the
3 occupation of hospital provider in this State, and the name
4 and address of each hospital operated, conducted, or
5 maintained by the provider in this State.

6 (3) The occupied bed days of the hospital provider, the
7 amount of assessment imposed under Section 5A-2 for the
8 State fiscal year for which the notice is sent, and the
9 amount of each quarterly installment to be paid during the
10 State fiscal year.

11 (4) (Blank).

12 (5) Other reasonable information as determined by the
13 Illinois Department.

14 (b) If a hospital provider conducts, operates, or maintains
15 more than one hospital licensed by the Illinois Department of
16 Public Health, the provider shall pay the assessment for each
17 hospital separately.

18 (c) Notwithstanding any other provision in this Article, in
19 the case of a person who ceases to conduct, operate, or
20 maintain a hospital in respect of which the person is subject
21 to assessment under this Article as a hospital provider, the
22 assessment for the State fiscal year in which the cessation
23 occurs shall be adjusted by multiplying the assessment computed
24 under Section 5A-2 by a fraction, the numerator of which is the
25 number of days in the year during which the provider conducts,
26 operates, or maintains the hospital and the denominator of
27 which is 365. Immediately upon ceasing to conduct, operate, or
28 maintain a hospital, the person shall pay the assessment for
29 the year as so adjusted (to the extent not previously paid).

30 (d) Notwithstanding any other provision in this Article, a
31 provider who commences conducting, operating, or maintaining a
32 hospital, upon notice by the Illinois Department, shall pay the
33 assessment computed under Section 5A-2 and subsection (e) in
34 installments on the due dates stated in the notice and on the

1 regular installment due dates for the State fiscal year
2 occurring after the due dates of the initial notice.

3 (e) Notwithstanding any other provision in this Article, in
4 the case of a hospital provider that did not conduct, operate,
5 or maintain a hospital throughout calendar year 2001, the
6 assessment for that State fiscal year shall be computed on the
7 basis of hypothetical occupied bed days for the full calendar
8 year as determined by the Illinois Department.

9 (f) (Blank).

10 (g) (Blank).

11 (h) (Blank).

12 (Source: P.A. 93-659, eff. 2-3-04.)

13 (305 ILCS 5/5A-7) (from Ch. 23, par. 5A-7)

14 Sec. 5A-7. Administration; enforcement provisions.

15 (a) The Illinois Department shall establish and maintain a
16 listing of all hospital providers appearing in the licensing
17 records of the Illinois Department of Public Health, which
18 shall show each provider's name and principal place of business
19 and the name and address of each hospital operated, conducted,
20 or maintained by the provider in this State. The Illinois
21 Department shall administer and enforce this Article and
22 collect the assessments and penalty assessments imposed under
23 this Article using procedures employed in its administration of
24 this Code generally. The Illinois Department, its Director, and
25 every hospital provider subject to assessment measured by
26 occupied bed days shall have the following powers, duties, and
27 rights:

28 (1) The Illinois Department may initiate either
29 administrative or judicial proceedings, or both, to
30 enforce provisions of this Article. Administrative
31 enforcement proceedings initiated hereunder shall be
32 governed by the Illinois Department's administrative
33 rules. Judicial enforcement proceedings initiated

1 hereunder shall be governed by the rules of procedure
2 applicable in the courts of this State.

3 (2) No proceedings for collection, refund, credit, or
4 other adjustment of an assessment amount shall be issued
5 more than 3 years after the due date of the assessment,
6 except in the case of an extended period agreed to in
7 writing by the Illinois Department and the hospital
8 provider before the expiration of this limitation period.

9 (3) Any unpaid assessment under this Article shall
10 become a lien upon the assets of the hospital upon which it
11 was assessed. If any hospital provider, outside the usual
12 course of its business, sells or transfers the major part
13 of any one or more of (A) the real property and
14 improvements, (B) the machinery and equipment, or (C) the
15 furniture or fixtures, of any hospital that is subject to
16 the provisions of this Article, the seller or transferor
17 shall pay the Illinois Department the amount of any
18 assessment, assessment penalty, and interest (if any) due
19 from it under this Article up to the date of the sale or
20 transfer. If the seller or transferor fails to pay any
21 assessment, assessment penalty, and interest (if any) due,
22 the purchaser or transferee of such asset shall be liable
23 for the amount of the assessment, penalties, and interest
24 (if any) up to the amount of the reasonable value of the
25 property acquired by the purchaser or transferee. The
26 purchaser or transferee shall continue to be liable until
27 the purchaser or transferee pays the full amount of the
28 assessment, penalties, and interest (if any) up to the
29 amount of the reasonable value of the property acquired by
30 the purchaser or transferee or until the purchaser or
31 transferee receives from the Illinois Department a
32 certificate showing that such assessment, penalty, and
33 interest have been paid or a certificate from the Illinois
34 Department showing that no assessment, penalty, or

1 interest is due from the seller or transferor under this
2 Article.

3 (4) Payments under this Article are not subject to the
4 Illinois Prompt Payment Act. Credits or refunds shall not
5 bear interest.

6 (b) In addition to any other remedy provided for and
7 without sending a notice of assessment liability, the Illinois
8 Department may collect an unpaid assessment by withholding, as
9 payment of the assessment, reimbursements or other amounts
10 otherwise payable by the Illinois Department to the hospital
11 provider.

12 ~~(a) To the extent practicable, the Illinois Department~~
13 ~~shall administer and enforce this Article and collect the~~
14 ~~assessments, interest, and penalty assessments imposed under~~
15 ~~this Article using procedures employed in its administration of~~
16 ~~this Code generally and, as it deems appropriate, in a manner~~
17 ~~similar to that in which the Department of Revenue administers~~
18 ~~and collects the retailers' occupation tax under the Retailers'~~
19 ~~Occupation Tax Act ("ROTA"). Instead of certificates of~~
20 ~~registration, the Illinois Department shall establish and~~
21 ~~maintain a listing of all hospital providers appearing in the~~
22 ~~licensing records of the Department of Public Health, which~~
23 ~~shall show each provider's name, principal place of business,~~
24 ~~and the name and address of each hospital operated, conducted,~~
25 ~~or maintained by the provider in this State. In addition, the~~
26 ~~following specified provisions of the Retailers' Occupation~~
27 ~~Tax Act are incorporated by reference into this Section except~~
28 ~~that the Illinois Department and its Director (rather than the~~
29 ~~Department of Revenue and its Director) and every hospital~~
30 ~~provider subject to assessment measured by occupied bed days~~
31 ~~(rather than persons subject to retailers' occupation tax~~
32 ~~measured by gross receipts from the sale of tangible personal~~
33 ~~property at retail) shall have the powers, duties, and rights~~
34 ~~specified in these ROTA provisions, as modified in this Section~~

1 ~~or by the Illinois Department in a manner consistent with this~~
2 ~~Article and except as manifestly inconsistent with the other~~
3 ~~provisions of this Article:~~

4 ~~(1) ROTA, Section 4 (examination of return; notice of~~
5 ~~correction; evidence; limitations; protest and hearing),~~
6 ~~except that (i) the Illinois Department shall issue notices~~
7 ~~of assessment liability (rather than notices of tax~~
8 ~~liability as provided in ROTA, Section 4); (ii) in the case~~
9 ~~of a fraudulent return or in the case of an extended period~~
10 ~~agreed to by the Illinois Department and the hospital~~
11 ~~provider before the expiration of the limitation period, no~~
12 ~~notice of assessment liability shall be issued more than 3~~
13 ~~years after the later of the due date of the return~~
14 ~~required by Section 5A 5 or the date the return (or an~~
15 ~~amended return) was filed (rather within the period stated~~
16 ~~in ROTA, Section 4); and (iii) the penalty provisions of~~
17 ~~ROTA, Section 4 shall not apply.~~

18 ~~(2) ROTA, Sec. 5 (failure to make return; failure to~~
19 ~~pay assessment), except that the penalty and interest~~
20 ~~provisions of ROTA, Section 5 shall not apply.~~

21 ~~(3) ROTA, Section 5a (lien; attachment; termination;~~
22 ~~notice; protest; review; release of lien; status of lien).~~

23 ~~(4) ROTA, Section 5b (State lien notices; State lien~~
24 ~~index; duties of recorder and registrar of titles).~~

25 ~~(5) ROTA, Section 5c (liens; certificate of release).~~

26 ~~(6) ROTA, Section 5d (Department not required to~~
27 ~~furnish bond; claim to property attached or levied upon).~~

28 ~~(7) ROTA, Section 5e (foreclosure on liens;~~
29 ~~enforcement).~~

30 ~~(8) ROTA, Section 5f (demand for payment; levy and sale~~
31 ~~of property; limitation).~~

32 ~~(9) ROTA, Section 5g (sale of property; redemption).~~

33 ~~(10) ROTA, Section 5j (sales on transfers outside usual~~
34 ~~course of business; report; payment of assessment; rights~~

1 ~~and duties of purchaser; penalty), except that notice shall~~
2 ~~be provided to the Illinois Department as specified by~~
3 ~~rule.~~

4 ~~(11) ROTA, Section 6 (erroneous payments; credit or~~
5 ~~refund), provided that (i) the Illinois Department may only~~
6 ~~apply an amount otherwise subject to credit or refund to a~~
7 ~~liability arising under this Article; (ii) except in the~~
8 ~~case of an extended period agreed to by the Illinois~~
9 ~~Department and the hospital provider before the expiration~~
10 ~~of this limitation period, a claim for credit or refund~~
11 ~~must be filed no more than 3 years after the due date of~~
12 ~~the return required by Section 5A-5 (rather than the time~~
13 ~~limitation stated in ROTA, Section 6); and (iii) credits or~~
14 ~~refunds shall not bear interest.~~

15 ~~(12) ROTA, Section 6a (claims for credit or refund).~~

16 ~~(13) ROTA, Section 6b (tentative determination of~~
17 ~~claim; notice; hearing; review), provided that a hospital~~
18 ~~provider or its representative shall have 60 days (rather~~
19 ~~than 20 days) within which to file a protest and request~~
20 ~~for hearing in response to a tentative determination of~~
21 ~~claim.~~

22 ~~(14) ROTA, Section 6c (finality of tentative~~
23 ~~determinations).~~

24 ~~(15) ROTA, Section 8 (investigations and hearings).~~

25 ~~(16) ROTA, Section 9 (witness; immunity).~~

26 ~~(17) ROTA, Section 10 (issuance of subpoenas;~~
27 ~~attendance of witnesses; production of books and records).~~

28 ~~(18) ROTA, Section 11 (information confidential;~~
29 ~~exceptions).~~

30 ~~(19) ROTA, Section 12 (rules and regulations; hearing;~~
31 ~~appeals), except that a hospital provider shall not be~~
32 ~~required to file a bond or be subject to a lien in lieu~~
33 ~~thereof in order to seek court review under the~~
34 ~~Administrative Review Law of a final assessment or revised~~

1 ~~final assessment or the equivalent thereof issued by the~~
2 ~~Illinois Department under this Article.~~

3 ~~(b) In addition to any other remedy provided for and~~
4 ~~without sending a notice of assessment liability, the Illinois~~
5 ~~Department may collect an unpaid assessment by withholding, as~~
6 ~~payment of the assessment, reimbursements or other amounts~~
7 ~~otherwise payable by the Illinois Department to the provider.~~

8 (Source: P.A. 93-659, eff. 2-3-04.)

9 (305 ILCS 5/5A-12)

10 (Section scheduled to be repealed on July 1, 2005)

11 Sec. 5A-12. Hospital access improvement payments.

12 (a) To improve access to hospital services, for hospital
13 services rendered on or after June 1, 2004, the Department of
14 Public Aid shall make payments to hospitals as set forth in
15 this Section, except for hospitals described in subsection (b)
16 of Section 5A-3. These payments shall be paid on a quarterly
17 basis. For State fiscal year 2004, if the effective date of the
18 approval of the payment methodology required under this Section
19 and the waiver granted under 42 CFR 433.68 by the Centers for
20 Medicare and Medicaid Services of the U.S. Department of Health
21 and Human Services is prior to July 1, 2004, the Department
22 shall pay the total amounts required for fiscal year 2004 under
23 this Section within 25 days of the latest notification; these
24 amounts shall be paid on or before June 15 of the year. No
25 payment shall be made for State fiscal year 2004 if the
26 effective date of the approval is on or after July 1, 2004. In
27 State fiscal year 2005 ~~subsequent State fiscal years~~, the total
28 amounts required under this Section shall be paid in 4 equal
29 installments on or before July 15, October 15, January 14, and
30 April 15 of the year, except that if the date of notification
31 of the approval of the payment methodologies required under
32 this Section and the waiver granted under 42 CFR 433.68 is on
33 or after July 1, 2004, the sum of amounts required under this

1 Section prior to the date of notification shall be paid within
2 25 days of the date of the last notification. Payments under
3 this Section are not due and payable, however, until (i) the
4 methodologies described in this Section are approved by the
5 federal government in an appropriate State Plan amendment, (ii)
6 the assessment imposed under this Article is determined to be a
7 permissible tax under Title XIX of the Social Security Act, and
8 (iii) the assessment is in effect.

9 (b) High volume payment. In addition to rates paid for
10 inpatient hospital services, the Department of Public Aid shall
11 pay, to each Illinois hospital that provided more than 20,000
12 Medicaid inpatient days of care during State fiscal year 2001
13 (except for hospitals that qualify for adjustment payments
14 under Section 5-5.02 for the 12-month period beginning on
15 October 1, 2002), \$190 for each Medicaid inpatient day of care
16 provided during that fiscal year. A hospital that provided less
17 than 30,000 Medicaid inpatient days of care during that period,
18 however, is not entitled to receive more than \$3,500,000 per
19 year in such payments.

20 (c) Medicaid inpatient utilization rate adjustment. In
21 addition to rates paid for inpatient hospital services, the
22 Department of Public Aid shall pay each Illinois hospital
23 (except for hospitals described in Section 5A-3), for each
24 Medicaid inpatient day of care provided during State fiscal
25 year 2001, an amount equal to the product of \$57.25 multiplied
26 by the quotient of 1 divided by the greater of 1.6% or the
27 hospital's Medicaid inpatient utilization rate (as used to
28 determine eligibility for adjustment payments under Section
29 5-5.02 for the 12-month period beginning on October 1, 2002).
30 The total payments under this subsection to a hospital may not
31 exceed \$10,500,000 annually.

32 (d) Psychiatric base rate adjustment.

33 (1) In addition to rates paid for inpatient psychiatric
34 services, the Department of Public Aid shall pay each

1 Illinois general acute care hospital with a distinct
2 part-psychiatric unit, for each Medicaid inpatient
3 psychiatric day of care provided in State fiscal year 2001,
4 an amount equal to \$400 less the hospital's per-diem rate
5 for Medicaid inpatient psychiatric services as in effect on
6 October 1, 2003. In no event, however, shall that amount be
7 less than zero.

8 (2) For distinct part-psychiatric units of Illinois
9 general acute care hospitals, except for all hospitals
10 excluded in Section 5A-3, whose inpatient per-diem rate as
11 in effect on October 1, 2003 is greater than \$400, the
12 Department shall pay, in addition to any other amounts
13 authorized under this Code, \$25 for each Medicaid inpatient
14 psychiatric day of care provided in State fiscal year 2001.

15 (e) Supplemental tertiary care adjustment. In addition to
16 rates paid for inpatient services, the Department of Public Aid
17 shall pay to each Illinois hospital eligible for tertiary care
18 adjustment payments under 89 Ill. Adm. Code 148.296, as in
19 effect for State fiscal year 2003, a supplemental tertiary care
20 adjustment payment equal to the tertiary care adjustment
21 payment required under 89 Ill. Adm. Code 148.296, as in effect
22 for State fiscal year 2003.

23 (f) Medicaid outpatient utilization rate adjustment. In
24 addition to rates paid for outpatient hospital services, the
25 Department of Public Aid shall pay each Illinois hospital
26 (except for hospitals described in Section 5A-3), an amount
27 equal to the product of 2.45% multiplied by the hospital's
28 Medicaid outpatient charges multiplied by the quotient of 1
29 divided by the greater of 1.6% or the hospital's Medicaid
30 outpatient utilization rate. The total payments under this
31 subsection to a hospital may not exceed \$6,750,000 annually.

32 For purposes of this subsection:

33 "Medicaid outpatient charges" means the charges for
34 outpatient services provided to Medicaid patients for State

1 fiscal year 2001 as submitted by the hospital on the UB-92
2 billing form or under the ambulatory procedure listing and
3 adjudicated by the Department of Public Aid on or before
4 September 12, 2003.

5 "Medicaid outpatient utilization rate" means a fraction,
6 the numerator of which is the hospital's Medicaid outpatient
7 charges and the denominator of which is the total number of the
8 hospital's charges for outpatient services for the hospital's
9 fiscal year ending in 2001.

10 (g) State outpatient service adjustment. In addition to
11 rates paid for outpatient hospital services, the Department of
12 Public Aid shall pay each Illinois hospital an amount equal to
13 the product of 75.5% multiplied by the hospital's Medicaid
14 outpatient services submitted to the Department on the UB-92
15 billing form for State fiscal year 2001 multiplied by the
16 hospital's outpatient access fraction.

17 For purposes of this subsection, "outpatient access
18 fraction" means a fraction, the numerator of which is the
19 hospital's Medicaid payments for outpatient services for
20 ambulatory procedure listing services submitted to the
21 Department on the UB-92 billing form for State fiscal year
22 2001, and the denominator of which is the hospital's Medicaid
23 outpatient services submitted to the Department on the UB-92
24 billing form for State fiscal year 2001.

25 The total payments under this subsection to a hospital may
26 not exceed \$3,000,000 annually.

27 (h) Rural hospital outpatient adjustment. In addition to
28 rates paid for outpatient hospital services, the Department of
29 Public Aid shall pay each Illinois rural hospital an amount
30 equal to the product of \$14,500,000 multiplied by the rural
31 hospital outpatient adjustment fraction.

32 For purposes of this subsection, "rural hospital
33 outpatient adjustment fraction" means a fraction, the
34 numerator of which is the hospital's Medicaid visits for

1 outpatient services for ambulatory procedure listing services
2 submitted to the Department on the UB-92 billing form for State
3 fiscal year 2001, and the denominator of which is the total
4 Medicaid visits for outpatient services for ambulatory
5 procedure listing services for all Illinois rural hospitals
6 submitted to the Department on the UB-92 billing form for State
7 fiscal year 2001.

8 For purposes of this subsection, "rural hospital" has the
9 same meaning as in 89 Ill. Adm. Code 148.25, as in effect on
10 September 30, 2003.

11 (i) Merged/closed hospital adjustment. If any hospital
12 files a combined Medicaid cost report with another hospital
13 after January 1, 2001, and if that hospital subsequently
14 closes, then except for the payments described in subsection
15 (e), all payments described in the various subsections of this
16 Section shall, before the application of the annual limitation
17 amount specified in each such subsection, be multiplied by a
18 fraction, the numerator of which is the number of occupied bed
19 days attributable to the open hospital and the denominator of
20 which is the sum of the number of occupied bed days of each
21 open hospital and each closed hospital. For purposes of this
22 subsection, "occupied bed days" has the same meaning as the
23 term is defined in subsection (a) of Section 5A-2.

24 (j) For purposes of this Section, the terms "Medicaid
25 days", "Medicaid charges", and "Medicaid services" do not
26 include any days, charges, or services for which Medicare was
27 liable for payment.

28 (k) As provided in Section 5A-14, this Section is repealed
29 on July 1, 2005.

30 (Source: P.A. 93-659, eff. 2-3-04.)

31 (305 ILCS 5/12-10.7 new)

32 Sec. 12-10.7. The Health and Human Services Medicaid Trust
33 Fund.

1 (a) The Health and Human Services Medicaid Trust Fund shall
2 consist of (i) moneys appropriated or transferred into the
3 Fund, pursuant to statute, (ii) federal financial
4 participation moneys received pursuant to expenditures from
5 the Fund, and (iii) the interest earned on moneys in the Fund.

6 (b) Subject to appropriation, the moneys in the Fund shall
7 be used by a State agency for such purposes as that agency may,
8 by the appropriation language, be directed.

9 Section 35. The Senior Citizens and Disabled Persons
10 Property Tax Relief and Pharmaceutical Assistance Act is
11 amended by changing Section 6 as follows:

12 (320 ILCS 25/6) (from Ch. 67 1/2, par. 406)

13 Sec. 6. Administration.

14 (a) In general. Upon receipt of a timely filed claim, the
15 Department shall determine whether the claimant is a person
16 entitled to a grant under this Act and the amount of grant to
17 which he is entitled under this Act. The Department may require
18 the claimant to furnish reasonable proof of the statements of
19 domicile, household income, rent paid, property taxes accrued
20 and other matters on which entitlement is based, and may
21 withhold payment of a grant until such additional proof is
22 furnished.

23 (b) Rental determination. If the Department finds that the
24 gross rent used in the computation by a claimant of rent
25 constituting property taxes accrued exceeds the fair rental
26 value for the right to occupy that residence, the Department
27 may determine the fair rental value for that residence and
28 recompute rent constituting property taxes accrued
29 accordingly.

30 (c) Fraudulent claims. The Department shall deny claims
31 which have been fraudulently prepared or when it finds that the
32 claimant has acquired title to his residence or has paid rent

1 for his residence primarily for the purpose of receiving a
2 grant under this Act.

3 (d) Pharmaceutical Assistance. The Department shall allow
4 all pharmacies licensed under the Pharmacy Practice Act of 1987
5 to participate as authorized pharmacies unless they have been
6 removed from that status for cause pursuant to the terms of
7 this Section. The Director of the Department may enter into a
8 written contract with any State agency, instrumentality or
9 political subdivision, or a fiscal intermediary for the purpose
10 of making payments to authorized pharmacies for covered
11 prescription drugs and coordinating the program of
12 pharmaceutical assistance established by this Act with other
13 programs that provide payment for covered prescription drugs.
14 Such agreement shall establish procedures for properly
15 contracting for pharmacy services, validating reimbursement
16 claims, validating compliance of dispensing pharmacists with
17 the contracts for participation required under this Section,
18 validating the reasonable costs of covered prescription drugs,
19 and otherwise providing for the effective administration of
20 this Act.

21 The Department shall promulgate rules and regulations to
22 implement and administer the program of pharmaceutical
23 assistance required by this Act, which shall include the
24 following:

25 (1) Execution of contracts with pharmacies to dispense
26 covered prescription drugs. Such contracts shall stipulate
27 terms and conditions for authorized pharmacies
28 participation and the rights of the State to terminate such
29 participation for breach of such contract or for violation
30 of this Act or related rules and regulations of the
31 Department;

32 (2) Establishment of maximum limits on the size of
33 prescriptions, new or refilled, which shall be in amounts
34 sufficient for 34 days, except as otherwise specified by

1 rule for medical or utilization control reasons;

2 (3) Establishment of liens upon any and all causes of
3 action which accrue to a beneficiary as a result of
4 injuries for which covered prescription drugs are directly
5 or indirectly required and for which the Director made
6 payment or became liable for under this Act;

7 (4) Charge or collection of payments from third parties
8 or private plans of assistance, or from other programs of
9 public assistance for any claim that is properly chargeable
10 under the assignment of benefits executed by beneficiaries
11 as a requirement of eligibility for the pharmaceutical
12 assistance identification card under this Act;

13 (4.5) Provision for automatic enrollment of
14 beneficiaries into a Medicare Discount Card program
15 authorized under the federal Medicare Modernization Act of
16 2003 (P.L. 108-391) to coordinate coverage including
17 Medicare Transitional Assistance;

18 (5) Inspection of appropriate records and audit of
19 participating authorized pharmacies to ensure contract
20 compliance, and to determine any fraudulent transactions
21 or practices under this Act;

22 (6) Annual determination of the reasonable costs of
23 covered prescription drugs for which payments are made
24 under this Act, as provided in Section 3.16;

25 (7) Payment to pharmacies under this Act in accordance
26 with the State Prompt Payment Act.

27 The Department shall annually report to the Governor and
28 the General Assembly by March 1st of each year on the
29 administration of pharmaceutical assistance under this Act. By
30 the effective date of this Act the Department shall determine
31 the reasonable costs of covered prescription drugs in
32 accordance with Section 3.16 of this Act.

33 (Source: P.A. 91-357, eff. 7-29-99; 92-651, eff. 7-11-02.)

1 Section 40. The Illinois Food, Drug and Cosmetic Act is
2 amended by changing Section 3.14 as follows:

3 (410 ILCS 620/3.14) (from Ch. 56 1/2, par. 503.14)

4 Sec. 3.14. Dispensing or causing to be dispensed a
5 different drug in place of the drug or brand of drug ordered or
6 prescribed without the express permission of the person
7 ordering or prescribing. However, this Section does not
8 prohibit the interchange of different brands of the same
9 generically equivalent drug product, when the drug products are
10 not required to bear the legend "Caution: Federal law prohibits
11 dispensing without prescription", provided that the same
12 dosage form is dispensed and there is no greater than 1%
13 variance in the stated amount of each active ingredient of the
14 drug products. ~~Nothing in this Section shall prohibit the
15 selection of different brands of the same generic drug, based
16 upon a drug formulary listing which is developed, maintained,
17 and issued by the Department of Public Health under which drug
18 product selection is permitted, is not subject to review at a
19 meeting of the Technical Advisory Council, is not subject to a
20 hearing in accordance with this Section, or is not specifically
21 prohibited.~~ A generic drug determined to be therapeutically
22 equivalent by the United States Food and Drug Administration
23 (FDA) shall be available for substitution in Illinois in
24 accordance with this Act and the Pharmacy Practice Act of 1987,
25 provided that each manufacturer submits to the Director of the
26 Department of Public Health a notification containing product
27 technical bioequivalence information as a prerequisite to
28 product substitution when they have completed all required
29 testing to support FDA product approval and, in any event, the
30 information shall be submitted no later than 60 days prior to
31 product substitution in the State. ~~If the Technical Advisory
32 Council finds that a generic drug product may have issues
33 related to the practice of medicine or the practice of~~

1 ~~pharmacy, the Technical Advisory Council shall review the~~
2 ~~generic drug product at its next regularly scheduled Technical~~
3 ~~Advisory Council meeting. Following the Technical Advisory~~
4 ~~Council's review and initial recommendation that a generic drug~~
5 ~~product not be included in the Illinois Formulary, a hearing~~
6 ~~shall be conducted in accordance with the Department's Rules of~~
7 ~~Practice and Procedure in Administrative Hearings (77 Ill.~~
8 ~~Admin. Code 100) and Article 10 of the Illinois Administrative~~
9 ~~Procedure Act if requested by the manufacturer. The Technical~~
10 ~~Advisory Council shall make its recommendation to the~~
11 ~~Department of Public Health within 20 business days after the~~
12 ~~public hearing. If the Department of Public Health, on the~~
13 ~~recommendation of the Technical Advisory Council, determines~~
14 ~~that, based upon a preponderance of the evidence, the drug is~~
15 ~~not bioequivalent, not therapeutically equivalent, or could~~
16 ~~cause clinically significant harm to the health or safety of~~
17 ~~patients receiving that generic drug, the Department of Public~~
18 ~~Health may prohibit the generic drug from substitution in the~~
19 ~~State. A decision by the Department to prohibit a drug product~~
20 ~~from substitution shall constitute a final administrative~~
21 ~~decision within the meaning of Section 22.2 of the Illinois~~
22 ~~Food, Drug and Cosmetic Act and Section 3-101 of the Code of~~
23 ~~Civil Procedure, and shall be subject to judicial review~~
24 ~~pursuant to the provisions of Article III of the Administrative~~
25 ~~Review Law. A decision to prohibit a generic drug from~~
26 ~~substitution must be accompanied by a written detailed~~
27 ~~explanation of the basis for the decision. Determination of~~
28 ~~products which may be selected shall be recommended by a~~
29 ~~Technical Advisory Council of the Department, selected by the~~
30 ~~Director of Public Health, which council shall consist of 7~~
31 ~~persons including 2 physicians, 2 pharmacists, 2~~
32 ~~pharmacologists and one other prescriber who have special~~
33 ~~knowledge of generic drugs and formulary. Technical Advisory~~
34 ~~Council members shall serve without pay, and shall be appointed~~

1 ~~for a 3 year term and until their successors are appointed and~~
2 ~~qualified. The procedures for operation of the Drug Product~~
3 ~~Selection Program shall be promulgated by the Director, however~~
4 ~~the actual list of products prohibited or approved for drug~~
5 ~~product selection need not be promulgated. The Technical~~
6 ~~Advisory Council shall take cognizance of federal studies, the~~
7 ~~U.S. Pharmacopoeia National Formulary, or other recognized~~
8 ~~authoritative sources, and shall advise the Director of any~~
9 ~~necessary modifications. Drug products previously approved by~~
10 ~~the Technical Advisory Council for generic interchange may be~~
11 ~~substituted in the State of Illinois without further review~~
12 ~~subject to the conditions of approval in the State of Illinois~~
13 ~~prior to the effective date of this amendatory Act of the 91st~~
14 ~~General Assembly.~~

15 ~~Timely notice of revisions to the formulary shall be~~
16 ~~furnished at no charge to all pharmacies by the Department.~~
17 ~~Single copies of the drug formulary shall be made available at~~
18 ~~no charge upon request to licensed prescribers, student~~
19 ~~pharmacists, and pharmacists practicing pharmacy in this State~~
20 ~~under a reciprocal license. The Department shall offer~~
21 ~~subscriptions to the drug formulary and its revisions to other~~
22 ~~interested parties at a reasonable charge to be established by~~
23 ~~rule. Before the Department makes effective any additions to or~~
24 ~~deletions from the procedures for operation of the Drug Product~~
25 ~~Selection Program under this Section, the Department shall file~~
26 ~~proposed rules to amend the procedures for operation of the~~
27 ~~program under Section 5-40 of the Illinois Administrative~~
28 ~~Procedure Act. The Department shall issue necessary rules and~~
29 ~~regulations for the implementation of this Section.~~

30 (Source: P.A. 91-766, eff. 9-1-00; 92-112, eff. 7-20-01.)

31 Section 99. Effective date. This Act takes effect upon
32 becoming law."